

# HOUSE BILL No. 5183

November 29, 2011, Introduced by Reps. Lipton, Roy Schmidt, Barnett, Slavens, Kandrevas, Constan, Switalski and Brown and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 278 (MCL 206.278), as amended by 2011 PA 38.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 278. (1) Subject to the limitations provided under this  
2 section, a taxpayer that makes a qualified investment after  
3 December 31, 2010 ~~and before January 1, 2012~~ in a qualified  
4 business may claim a credit against the tax imposed by this act  
5 equal to 25% of the qualified investment made during the tax year.

6           (2) To qualify for the credit under this section, the taxpayer  
7 shall request certification from the Michigan strategic fund within  
8 60 days of making the investment. A taxpayer shall not claim a  
9 credit under this section unless the Michigan strategic fund has  
10 issued a certificate to the taxpayer. The board shall not approve a

1 credit under this section for a taxpayer who has been convicted of  
2 a felony involving a fiduciary obligation or the conversion or  
3 misappropriation of funds or insurance accounts, theft, deceit,  
4 fraud, misrepresentation, or corruption. The Michigan strategic  
5 fund shall forward a copy of each certificate received pursuant to  
6 this subsection to the governor, the president of the Michigan  
7 strategic fund, the chairperson of the senate finance committee,  
8 the chairperson of the house tax policy committee, the director of  
9 the senate fiscal agency, and the director of the house fiscal  
10 agency. The requirements of section 28(1)(f) of 1941 PA 122, MCL  
11 205.28, do not apply to the disclosure required by this subsection.  
12 The Michigan strategic fund shall not certify more than  
13 \$1,000,000.00 in qualified investments in any 1 qualified business.  
14 The taxpayer shall attach the certificate to the annual return  
15 filed under this act on which a credit under this section is  
16 claimed. The certificate required under this subsection shall  
17 specify all of the following:

18 (a) The total amount of investment made during the tax year by  
19 the taxpayer in each qualified business.

20 (b) The total amount of qualified investments made in each  
21 qualified business if different from the previous amount.

22 (c) The total amount of the credit under this section that the  
23 taxpayer is allowed to claim for the designated tax year.

24 (3) A taxpayer shall not claim a credit of more than  
25 \$250,000.00 based on an investment in any 1 qualified business and  
26 shall not claim a credit of more than \$250,000.00 for qualified  
27 investments in all qualified businesses in any 1 year. The credit

1 allowed under this section shall be taken by the taxpayer in equal  
2 installments over 2 years beginning with the tax year in which the  
3 certification was issued.

4 (4) The total amount of credits that the Michigan strategic  
5 fund may certify under this section shall not exceed \$9,000,000.00.

6 (5) If the amount of the credit allowed under this section  
7 exceeds the tax liability of the taxpayer for the tax year, that  
8 portion of the credit that exceeds the tax liability of the  
9 taxpayer for the tax year shall not be refunded but may be carried  
10 forward to offset tax liability under this act in subsequent tax  
11 years for a period not to exceed 5 tax years or until used up,  
12 whichever occurs first.

13 (6) The board shall develop an application and approval  
14 process in order to certify investments under this section and  
15 adopt a program describing parameters and criteria to be used for  
16 approving investments. As part of that program adoption, the board  
17 may determine and describe the conditions to be met to be  
18 considered an investment alongside or through an approved angel  
19 group, seed capital firm, or venture capital firm.

20 (7) A taxpayer who has not paid or entered into an installment  
21 agreement regarding a final assessment of an unpaid liability for a  
22 state tax for which all rights of appeal have been exhausted or who  
23 is currently in a bankruptcy proceeding is not eligible to claim a  
24 credit under this section.

25 (8) As used in this section:

26 (a) "Board" means the board of directors of the Michigan  
27 strategic fund.

1 (b) "Michigan strategic fund" means the Michigan strategic  
2 fund as described in the Michigan strategic fund act, 1984 PA 270,  
3 MCL 125.2001 to 125.2094.

4 (c) "Qualified business" means a business that the board  
5 certifies as in compliance with all of the following at the time of  
6 the investment:

7 (i) The business is a seed or early stage business as defined  
8 in section 3 of the Michigan early stage venture investment act of  
9 2003, 2003 PA 296, MCL 125.2233.

10 (ii) The business has its headquarters in this state, is  
11 domiciled in this state, and has a majority of its employees  
12 working in this state.

13 (iii) The business has a preinvestment valuation of less than  
14 \$10,000,000.00 and has fewer than 100 full-time equivalent  
15 employees.

16 (iv) Except as otherwise provided under this subparagraph, the  
17 business has been in existence less than 5 years; or, for a  
18 business in which the business activity is derived from research at  
19 an institution of higher education located within this state or an  
20 organization exempt from federal taxation under section 501(c)(3)  
21 of the internal revenue code and that is located within this state,  
22 the business has been in existence less than 10 years. As used in  
23 this subparagraph, a public or private college or university that  
24 awards a bachelor's degree or other degrees is an institution of  
25 higher education.

26 (v) The business is not a retail establishment as described in  
27 section 44-45 - retail trade, of the North American industry

1 classification system, United States, 1997, published by the office  
2 of management and budget.

3 (vi) The business has not claimed a credit under section 431,  
4 455, 457, or 459 of the Michigan business tax act, 2007 PA 36, MCL  
5 208.1431, 208.1455, 208.1457, and 208.1459.

6 (d) "Qualified investment" means, except as otherwise provided  
7 under this subdivision, an investment of at least \$20,000.00  
8 certified by the Michigan strategic fund that is made alongside of,  
9 or through, a seed venture capital or angel investor group that is  
10 registered with the Michigan strategic fund and is not in a  
11 business in which any member of the investor's family is an  
12 employee or owner of the business or in which the investor or any  
13 member of the investor's family has a preexisting fiduciary  
14 relationship with the business. Qualified investment does not  
15 include an investment in a business that engages in life sciences  
16 technology unless those activities are included in the definition  
17 of life sciences as that term is defined under section 88a of the  
18 Michigan strategic fund act, 1984 PA 270, MCL 125.2088a.